Syllabus

NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States* v. *Detroit Timber & Lumber Co.*, 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

Syllabus

DISTRICT OF COLUMBIA *v.* UNITED STATES

REVIEW TO THE UNITED STATES GOVERNMENT

No. ###. Argued December 22, 2024—Decided February 2, 2025

In late October of 2024, Congress enacted the D.C. Prosecution Act of 2024, barring any entity besides the Office of the United States Attorney for the District of Columbia from prosecuting any municipal-level offenses. The District of Columbia immediately challenged the law on its face and sought a stay on proceedings under this Court's Anytime Review Jurisdiction. Both the stay and review were granted. The District contests that the law's interference in the District's prosecutorial powers violates anti-commandeering principles and is therefore unconstitutional under the 10th Amendment. The United States argues that the District is its Seat of Government and therefore does not enjoy the same anti-commandeering protections a 10th Amendment municipality does.

Held:

(a) The District of Columbia is the Federal Government's Seat of Government. Pp. 2-7.

(b) The Seat of Government Clause is subject to limits designed by other provisions of the Constitution. Pp. 8-9.

(c) The D.C. Prosecution Act of 2024 is facially unconstitutional, as it offends federalist principles embedded in our Constitution that relate to a dual-sovereign system. Pp. 10-12.

BRENNAN, J., delivered the opinion of the Court, in which POWELL J., joined. GOBIES, J., filed an opinion concurring in the judgment.

SUPREME COURT OF THE UNITED STATES

No. ###

DISTRICT OF COLUMBIA, PETITIONERS *v.*

UNITED STATES, RESPONDENTS

ON PETITION FOR WRIT OF REVIEW TO

THE UNITED STATES GOVERNMENT

[February 2, 2025]

JUSTICE BRENNAN delivered the opinion of the Court. JUSTICE GOBIES filed an opinion concurring in the judgment.

JUSTICE LEROUX and JUSTICE WHITTAKER took no part in the consideration or decision of this case.

I

At the heart of this debate is a question that has plagued this Court for years now: what is the District of Columbia's legal status? Is it an inherently sovereign municipality, or is it nothing more than the Federal Government's Seat of Government? Can it be a hybrid of the two?

Though we've never directly answered this question, this Court has opined much on this recurring theme of Congressional intervention in the District's municipal-level affairs. For instance, in *Hamilton v. United States*, 9 U.S. 202 (2020), we held that Congress "lacks the power to enact legislation either abolishing or internally reforming local agencies" after Congress attempted to abolish the United States State Police (which, despite its name, was a law enforcement entity operating under the jurisdiction of the municipal government). (*Ibid*, 215). Likewise, in *Blue v. United States,* 9 U.S. 215 (2020), we held that the federal government cannot prohibit nor dictate how the District exercises its policing powers after Congress altered the enforcement procedure for a municipal-level offense.

What this Court has not been able to opine, after all these years, is a clear and definitive answer on DC's legal status in light of the Seat of Government argument.

Today, we aim to do just that.

II

It's important to recognize that as the District correctly points out, over the years, this Court has woven a string of precedents that seem to recognize the District's municipal government as its own sovereign entity; treating the District much like we would a Municipality under the 10th Amendment. However, the history of this idea has been muddied over the years, to say the least.

Firstly, it's important to premise that the District of Columbia was initially recognized as the Seat of Government, not a municipality. In fact, in the earliest versions of DC, the binding Constitution at the time explicitly omitted the 10th Amendment and the entire concept of "states' [or as we've come to understand it, municipalities'] rights" entirely. See *Snowbleed v. Nevada Highway Patrol*, 4 U.S. 20 (2017) (Bork, J., concurring) ("The D. C. City Council… is the seat of government, not a Municipality"). See also *United States v. District of*

Columbia, 5 U.S. 95 n.2 (2018) ("The District of Columbia… originally the seat of government"). Moreover, while it is true that the Preamble to the DC Charter refers to the District as "the Municipality of Washington, District of Columbia," the immediately succeeding paragraph recognizes it as a "municipal corporation." Similarly, 4 USC § 71 reaffirms that the entire District remains the "permanent seat of government of the United States."

That said, the petitioner faces an uphill battle in rationalizing our prior decisions that seem to recognize the District as a sovereign Municipality. Unfortunately, the only argument that the District can muster when taking on this heavy burden is that like a "freed slave [who] becomes a fellow citizen" following their emancipation, the District too became a freed municipality after its Charter granted it the power to assemble a legislative and executive body. See Tr. of Oral Arg. Link.

However, to say this is true would be a misconstruction of the Charter and our existing precedents. At no point did Congress intend to relinquish the District from its grasp,

nor would the granting of a municipal government bar Congress from revisiting DC's governmental systems.

Turning to the Charter for reference, while it does share similarities to the Constitution, it is not identical– precisely because Congress never meant to give the false impression that the District should be unequivocally understood as a sovereign municipality under the 10th Amendment.

The Charter's Bill of Rights lays out that "[t]he powers not delegated to Congress may be legislated in the D.C. City Council." Working with the same subject ("the powers,") the Constitution declares that whatever "is not delegated to the United States, nor prohibited by it to the Municipalities, are reserved to the Municipalities." U.S. Const., Article 10. Though subtle, the distinction is there and we ought to give it attention; for, "it is a general principle of statutory construction that when Congress includes particular language in one section of a statute but omits it in another section of the same Act, it is generally presumed that Congress acts intentionally and purposely in the disparate inclusion or exclusion. *Barnhart v.*

Sigmon Coal Co., 534 U.S. 438, (2002) (internal citations omitted)

Returning to this distinction, "are" in the Constitution is definitive and absolute. Whatever powers are not delegated to the Federal Government nor are prohibited to the municipalities, belong to the municipalities: no ifs, ands, or buts. However, "may" "does not just suggest discretion, it clearly connotes it." *Biden v. Texas*, 597 U.S. 785, 802 (2022). That said, if Congress had intended to invest in the District full-fledged autonomy, then they would have done so in more absolutist terms; just as they have done with Municipalities in the Constitution.

Likewise, even when Congress uses "shall" to empower the Mayor in the Charter and the Council's legislative powers, Congress stipulates that these powers will "not [be] inconsistent with… any other Act of the Congress." D.C. Charter, Article I, Section 4, Clause d; D.C. Charter, Article III, Section 7, Clause a. Finally, as if their point was not clear enough, Congress was sure to include two explicit clauses reiterating their exclusive jurisdiction over the District: the Federal Sovereignty Clause and the

Charter Entrenchment Clause. (Article III, Section 20; Article III, Section 7, Clause d).

Perhaps another point of confusion that arises from this seemingly unorthodox analysis of the District's political status, is the fact that all realms of our community, including this very Court and Congress, refer to the District as a municipality. However, this is in name only and is not a substantive reform of DC's political status. See *Metro. R.R. v. District of Columbia*, 132 U.S. 1, 9 (1889) ("It is undoubtedly true that the District of Columbia is a separate political community in a certain sense, and in that sense may be called a State; but the sovereign power of this qualified State is not lodged in the corporation of the District of Columbia, but in the government of the United States."

Likewise, contrary to the petitioner's arguments that insist otherwise, no matter how long Congress may have remained dormant in its exercise of its legislative powers over the District, the simple fact of the matter is the District's "character as a mere municipal corporation has not been changed." *Ibid*., at 22.

III

Traditionally, the Seat of Government Clause has been read through an absolutist lens; with Congress's powers over the District being so extensive that they can "at any time… revise, alter, or revoke the authority granted" to the municipal government. *District of Columbia v. John R. Thompson Co.*, 346 U.S. 100, 109, (1953). The jurisdiction of this power seemingly knows no bounds and extends into "all the powers of legislation which may be exercised by a State in dealing with its affairs." *Atl. Cleaners & Dyers, Inc. v. United States*, 286 U.S. 427, 435, (1932). What's more, in real life, not only *could* the federal government disband the municipal government entirely, it *has* done so in the past.

Much like our own process, it wasn't until about 20 years after the District was created that Congress allowed them to create a municipal government. However, amidst political and financial troubles, nearly 50 years into the District's quasi-independence as a municipal corporation, Congress dissolved the democratically elected government and instead created a board of three presidentially appointed and Senate-confirmed commissioners

responsible for managing the District. The District was subject to this system for nearly a century, and over that period, there was no successful litigation that said such conduct was unconstitutional. See Cong. Rsch. Serv., "District of Columbia: Relationship to the Federal Government," (1996).

However, to say the Seat of Government Clause is this absolute would be specious; both our nUSA Court and the real-world Supreme Court have recognized that the clause is "subject to, in some cases, inherent limitations." *United States v. Cabot*, 10 U.S. 33, 44, (2020). See also *Capital Traction Co. v. Hof*, 174 U.S. 1, 5, (1899) (Congress's legislative powers over the District are absolute "so long as it does not contravene any provision of the Constitution of the United States").

Therefore, the question now becomes "does this act offend the Constitution?" To which, we agree with the petitioner. The D.C. Prosecution Act of 2024 is facially unconstitutional, as it impairs upon the federalist principles embedded in our Constitution.

IV

As previously noted, since the inception of the 10th Amendment in the TimCons, our Framers embraced a Calvinist-based distrust of the amalgamation of power and realized that in order to "secure[] to citizens the liberties that derive from the diffusion of sovereign power," they would have to construct a dual-sovereign system consisting of the federal and municipal government(s). *New York v. United States*, 505 U.S. 144, 181 (1992) (quoting *Coleman v. Thompson*, 501 U.S. 722, 759 (1991) (Blackmun, J., dissenting)). This foundational principle continues to exist, as documented by the preservation of the 10th Amendment in the recently ratified GobiesCons.

Seeing as though the District is currently the sole venue a municipal government can exist in, and that our Framers had intended to "split the atom of sovereignty… [into] one state [in our case, the Municipalities] and one federal," it becomes abundantly clear that the Seat of Government Clause does not guarantee the federal government an absolute authority to govern the District as they see fit. *United States Term Limits v. Thorton*, 514

U.S. 779, 838 (1995) (Kennedy, J., concurring). While the District is the Federal Seat of Government, our Constitution's federalist ideals facilitate an environment in which "[a]mbition… be made to counteract ambition" (The Federalist No. 51 (James Madison)) and is generally guided by "the basic policy of avoiding excess concentration of power in government, federal or state." *Pointer v. Texas*, 380 U.S. 400 (1965). See also *Arizona v. Mayorkas*, 143 S. Ct. 1312, 1315-1316 (2023) ("The concentration of power in the hands of so few may be efficient and sometimes popular. But it does not tend toward sound government") (Gorsuch, J., concurring).

That said, our highest duty is to ensure our rulings are aligned with, preserve, and uphold the core tenets of our Constitution. See generally *Marbury v. Madison*, 5 U.S. 137 (1803); *Cooper v. Aaron*, 358 U.S. 1, (1958); *Zivotofsky v. Clinton*, 566 U.S. 189 (2012); *Trump v. United States* 603 U.S. 593 (2024). Thus, allowing this law to stand would ensure the federal government is the only entity in our community capable of prosecuting criminal offenses: an extreme concentration of power into one entity.

This idea inherently goes against the safeguards our Constitution's federalist principles erect, and as such, has no room to breathe.

* * *

JUSTICE GOBIES, concurring in the judgment.

This case presents a controversy foundational to the federalist government envisioned in the Constitution of the United States, a federalist system adapted by our community over the course of a decade and through multiple adopted Constitutions.

While I am aligned with the judgment rendered by the Court, my opinion diverges on whether the District of Columbia should be regarded as the seat of government of the United States.

I

Over the past decade, our community has navigated an evolving government and legal system, rooted in federalist ideals championed in the Constitution of the United States. Historically, our federal government's influence has been confined to a single municipality, whether it be the City of Las Vegas, the District of Columbia, or Boulder County.

The adoption of our previous Constitution, known colloquially as "TimCons," occurred during a period when federal authority was concentrated in one municipality. The adoption of TimCons marked a significant departure from unitary government under our first constitution, known colloquially as "FruCons," which established a unitary system devoid of any constitutional recognition of state or municipal existence. Under FruCons, all legislative power outside of developmental matters was centralized in the Congress of the United States.

The shift to TimCons was beyond revolutionary in our community and occurred concurrently with the advancement of our legal community. It introduced a framework of federalism in the form of municipalities,

allowing municipalities to function and exist with an identity akin to that of states, though with certain limitations such as lacking the ability to operate a judiciary or regulate commerce. Initially, municipalities faced significant federal oversight and interference, which often impeded their autonomy and development. However, these local entities gradually asserted themselves, gaining protection to exercise their prerogatives and carving out a role in our community.

Through persistence and determination, municipalities have expanded their roles—establishing and managing their own police departments, fire departments, emergency medical services, developing criminal codes, and prosecuting violations of their own laws.

The full maturation of the modern municipality occurred in 2018, when municipalities definitively established their right to possess full independence and constitutional authority to prosecute violations of their own laws within federal district courts. This evolution culminated in a significant decision: "Municipalities may prosecute violations of their criminal laws in federal district courts without congressional authorization."

United States v. District of Columbia, 5 U.S. 95 (2018). This shifted municipalities from mere administrative roles to sovereign entities capable of enforcing authority.

This development shifted the role of municipality from simple sub-federal administrators of local agencies to full sovereigns capable of exercising and enforcing their authorities. As expressed by this Court, "though originally the seat of government, [the District] was admitted as a Municipality with the adoption of the D.C. City Charter." *United States v. District of Columbia*, 5 U. S. 95 (2018).

II

Notably, every municipality accepted by our community be it under TimCons, or the current Constitution of the United States, has been accepted in an environment wherein the federal exercise of power has been coincidental to the exercise of power by a municipality over the same location.

In viewing whether the District of Columbia should therefore be considered as a municipality or as the federal district, it is essential to consider the distinctive constitutional and governmental evolution of our community. Each constitutional framework adopted in

our history has growingly emphasized the coexistence and interaction between federal and municipal authorities within a shared jurisdiction.

The legal foundation and establishment of the District of Columbia can be closely compared to that of the City of Las Vegas, as both entities were established and accepted as municipalities through an Act of Congress that included the verbatim charters of each municipality. This method of establishment indicates a parallel process and an acknowledgment of municipal status by Congress for both municipalities. The legislative approach taken to implement both charters showcases a standard procedure by which municipalities are accepted within our constitutional framework.

This approach sets a precedent for how municipalities are accepted, reinforcing this Court's observation that "the Cities of Las Vegas and Washington, D.C. are proper Municipalities." *In re Federal Government*, 7 U.S. 1 (2019). As this Court has stated, "though originally the seat of government, [the District] was admitted as a Municipality with the adoption of the D.C. City Charter." *United States v. District of Columbia*, 5 U.S. 95 (2018).

In these legislative processes, neither the District of Columbia nor Las Vegas were designated as the Seat of Government, indicating Congress's intent to recognize both as municipalities. This is further supported by this Court's ruling in United States v. Cabot, where we acknowledged the "municipalization" of the *District*. *United States v. Cabot*, 10 U.S. 33 (2020).

Moreover, the specific enactment process whereby Congress accepted the District of Columbia is near identical to the enacting process of accepting the City of Las Vegas. It is significant to note that neither legal process occurred while designating Las Vegas or the District of Columbia as the seat of government.

The consistent statutory approach in enacting these municipal charters through Congress establishes a well established and observable method to accept municipalities into our union, both past and future.

This Court has consistently upheld municipal sovereignty against federal infringement. In Hamilton v. United States, the Court emphasized that "Congress lacks the power to enact legislation abolishing or reforming the internal structures of a local agency," thereby reinforcing

municipalities' sovereignty. *Hamilton v. United States*, 9 U.S. 202 (2020). Furthermore, we have ruled that "the federal government crossed the line by coercing the District of Columbia to exercise their police power the way Congress says rather than how the Municipality determines." *Blue v. United States*, 9 U.S. 215 (2020).

III

By acknowledging the history of municipalities within our nation, and in reinforcing the autonomy of the District of Columbia, it becomes essential to respect the municipal status of the District as established under our union. This recognition honors the historical and legal evolution of our constitutional structure and affirms the constitutional status rightly granted to the District.

While concurring in the judgment, I assert that the District stands as a proper municipality, embodying our progress in establishing a federal form of government.